

VZCZCXRO8825

OO RUEHAG RUEHAST RUEHBI RUEHCI RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK
RUEHKW RUEHLA RUEHLH RUEHLN RUEHLZ RUEHNEH RUEHNP RUEHPOD RUEHPW
RUEHROV RUEHRS RUEHSR RUEHVK RUEHYG
DE RUEHTA #0591/01 0931200
ZNR UUUUU ZZH
O 031200Z APR 09
FM AMEMBASSY ASTANA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 5093
INFO RUCNCIS/CIS COLLECTIVE 1447
RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEHBJ/AMEMBASSY BEIJING 0825
RUEHKO/AMEMBASSY TOKYO 1528
RUEHUL/AMEMBASSY SEOUL 0512
RUCNDT/USMISSION USUN NEW YORK 2248
RUEHNO/USMISSION USNATO 2578
RUCPDO/DEPT OF COMMERCE WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RUEAIIA/CIA WASHDC
RHEFAAA/DIA WASHDC
RHEHNSC/NSC WASHDC 1010
RUEKJCS/SECDEF WASHDC 0923
RUEKJCS/JOINT STAFF WASHDC
RHMFIUU/CDR USCENTCOM MACDILL AFB FL
RUEHAST/USOFFICE ALMATY 1384

UNCLAS SECTION 01 OF 02 ASTANA 000591

SIPDIS

STATE FOR SCA/CEN, EUR/ACE, F, SCA/PPD, DRL
STATE PLEASE PASS TO USAID

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [EAID](#) [SOCI](#) [KZ](#)

SUBJECT: KAZAKHSTAN: JUDICIARY SEEKS TO INCREASE COOPERATION WITH
UNITED STATES

ASTANA 00000591 001.2 OF 002

1. SUMMARY: On March 17, visiting USAID Democracy and Governance Advisor Gavin Helf and other USAID staff met with Abdrashid Zhukenov, Acting Chairman of the Supreme Court and Chairman of the Collegium on Criminal Cases, and Ilyas Ispanov, First Deputy Chairman of the Supreme Court's Administration Committee. The participants discussed progress on judicial reform in Kazakhstan, the potential for increased cooperation between the judiciary and USAID, and the specific needs of Kazakhstan's judiciary. The Supreme Court officials expressed a keen interest in increasing cooperation with USAID through additional training activities of judges and staff as well as public outreach campaigns in the areas of jury trials and judicial oversight of the pre-trial process. END SUMMARY.

JUDICIAL REFORM IS PROGRESSING

2. Acting Chairman Zhukenov overviewed the current state of the judiciary and its progress over the past several years. He stated that reforms have been gradual but steady. Jury trials were first introduced in 2007, and crimes that fall under the scope of jury trials will be expanded in January 2010 to include "especially dangerous crimes." A one-year pilot program for the establishment of juvenile courts in Almaty and Astana is likely to be expanded country wide in 2010. Moreover, a draft law is currently before Parliament that would provide for the restructuring of the judicial system, including establishing jury trials in lower courts and expanding the subject matter jurisdiction of lower courts. The draft law also expands the jurisdiction of the specialized courts.

3. There have been improvements in the working conditions for the judiciary. Deputy Administration Committee Chairman Ispanov stated that a special committee established in 2006 has implemented several positive reforms. Almost all courts in the country now have their own facilities and, in 2007, additional facilities designated for jury trials began to be constructed. Advice and recommendations from USAID were helpful in the design of new court premises.

Moreover, the salaries of judges were increased 20-60 percent, and medical and social benefits were also improved.

COURTS MORE TRANSPARENT WITH COURT REPORTING IMPROVEMENTS

¶4. Acting Chairman Zhukenov expressed appreciation for the support and assistance the Supreme Court and judiciary received from USAID based on the current Memorandum of Understanding, and the associated Kazakhstan Judicial Assistance Project (KJAP). The KJAP focused on increasing the transparency of the courts through the procurement and installation of audio/video court reporting equipment, along with associated training for court staff on the use of such equipment. USAID provided equipment for six courts, and the Government of Kazakhstan further expanded the project to an additional 33 courts. The installation of relevant software and training by USAID also allowed for greater information sharing and cooperation among courts. The Supreme Court is now considering further technological improvements that will allow for remote testimony, nation-wide training activities, and improving methods for the protection of witnesses.

¶5. The KJAP ensures that a complete and accurate record of the trial exists, thus creating confidence among citizens that their trials were conducted properly and impartially. Seventy-three percent of citizens who participated in a recorded trial reported that they have more trust in courts that use the video recording equipment than those that do not. Ninety-three percent of all court staff using the equipment support its use in all courts in Kazakhstan. Increased confidence and satisfaction was also shown in the drop in appeal rates for recorded cases, since non-recorded cases were three times more likely to be appealed.

SUPREME COURT CALLS FOR MORE TRAINING FOR JUDGES

¶6. Acting Chairman Zhukenov stressed that the continued expansion

ASTANA 00000591 002.2 OF 002

of jury trials in the country required more training programs for judges. Jury trials will start in district courts where judges and court staff have no experience in holding such trials. In addition to training programs for judges, events that bring judges currently implementing jury trials together with judges that will be doing so in the coming years would be very beneficial. Ispanov requested assistance in developing a public information campaign to better inform citizens about jury trials, including the roles and responsibilities of juries.

JUDGES NOW RESPONSIBLE FOR ISSUING ARREST WARRANTS

¶7. Another area of special training needed for the judiciary involves pre-trial investigations. Beginning in August 2008 with a change to the Criminal Procedure Law, the courts became responsible for weighing evidence, ruling on probable cause, and issuing arrest warrants. Acting Chairman Zhukenov requested a training program for judges on principles of and control over pre-trial investigations. Zhukenov believes that the U.S. experience of judicial oversight of pre-trial matters, such as the issuance of search and arrest warrants, could be particularly helpful. Ispanov requested assistance in informing the public of the new systems of judicial oversight, since most citizens do not know their rights under this new system. Moreover, the defense bar is also in serious need of training and assistance in order to prepare to effectively represent their clients in jury trials. Right now, the quality of the defense bar is quite low.

¶8. The Mission also supports judicial reform in Kazakhstan through Open World, a professional exchange program of the U.S. Congress that operates in the former Soviet republics and coordinates with USAID and U.S. Embassy Public Affairs Sections. Since 2008, Embassy Astana has sent 16 Kazakhstani legal professionals to the United States through Open World to meet their professional American counterparts. During their programs in Washington and other U.S. cities, Kazakhstani Supreme Court judges and officials from the Prosecutor General's Office and Ministry of Justice have spent 10 days learning about tax law, intellectual property rights, and international law.

19. COMMENT: USAID is currently developing a judicial reform program that will respond to a previous request by the Supreme Court -- training judges in preparation for WTO accession. However, opportunities exist to provide substantive criminal procedure training that has very positive implications for human rights protection. Judicial review of the adequacy of evidence prior to arrest, a function previously fulfilled by the Procuracy, should result in a more fair and balanced review of evidence. Current USAID funding levels will not allow for a comprehensive response to the Supreme Court's requests, but the Open World Program could perhaps address those made by Chairman Zhubkenov in paras 5 and 6 above: bring Kazakhstani judges who will be implementing jury trials into contact with American judges currently doing so, and bring Kazakhstani judges to meet with U.S. counterparts on the principles of and control over pretrial investigations. The European Union is preparing a major program to support the defense bar. END COMMENT.

HOAGLAND